



STATE OF NEW JERSEY

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

In the Matter of Netu James, Fire
Fighter (M1566T), Plainfield

List Removal Appeal

CSC Docket No. 2019-930

ISSUED: JUNE 14, 2019 (HS)

Netu James appeals the removal of his name from the eligible list for Fire Fighter (M1566T), Plainfield on the basis that he did not appear for preemployment processing.

The appellant, a non-veteran, took and passed the open-competitive examination for Fire Fighter (M1566T), which had a closing date of August 31, 2015. The resulting eligible list promulgated on March 11, 2016 and expired on March 28, 2019.¹ The appellant's name was certified to the appointing authority on January 30, 2018. In disposing of the certification, the appointing authority requested the removal of the appellant's name on the basis that he did not appear for preemployment processing. Specifically, the appointing authority asserted that the appellant did not attend a scheduled appointment for processing on April 25, 2018. In support, it submitted copies of the notice to appear mailed to candidates and sign-in sheet in which the appellant was marked a no-show.

On appeal to the Civil Service Commission (Commission), the appellant submits a sworn, notarized statement indicating that he did not receive the notice to appear for preemployment processing.

It is noted that the appointing authority, though provided the opportunity, did not submit any arguments in response.

¹ The eligible list was extended one year to March 28, 2019.

CONCLUSION

N.J.A.C. 4A:4-4.7(a)11 allows the Commission to remove an eligible's name from an eligible list for other valid reasons. *N.J.A.C.* 4A:4-6.3(b), in conjunction with *N.J.A.C.* 4A:4-4.7(d), provides that the appellant has the burden of proof to show by a preponderance of the evidence that an appointing authority's decision to remove his name from an eligible list was in error.

The appointing authority requested the removal of the appellant's name from the eligible list for Fire Fighter (M1566T) on the basis of his failure to appear for a scheduled appointment for preemployment processing. However, the appellant has submitted a sworn, notarized statement, attesting to the fact that he did not receive the notice to appear. While there is a presumption that mail correctly addressed, stamped and mailed was received by the party to whom it was addressed, the appellant has rebutted that presumption in submitting his sworn, notarized statement. *See SSI Medical Services, Inc. v. State Department of Human Services*, 146 *N.J.* 614 (1996); *Szczesny v. Vasquez*, 71 *N.J. Super.* 347, 354 (App. Div. 1962); *In the Matter of Joseph Bahun*, Docket No. A-1132-00T5F (App. Div. May 21, 2001). Thus, it is appropriate that the appellant's name be restored to the subject eligible list. Since the M1566T eligible list expired on March 28, 2019, it is appropriate to revive that list at the time of the next certification to allow the appellant to be considered for prospective appointment.

ORDER

Therefore, it is ordered that this appeal be granted and the eligible list for Fire Fighter (M1566T), Plainfield be revived in order for Netu James to be considered for appointment at the time of the next certification for prospective employment opportunities only.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 12TH DAY OF JUNE, 2019



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